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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,783	12/28/2005	Leobald Podbielski	12604/18	8753
26646 7590 08/18/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
PATTON, SPENCER D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,783

**Applicant(s)**

PODBIELSKI ET AL.

**Examiner**

SPENCER PATTON

**Art Unit**

3664

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 6/10/2009
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of the amendments and IDS filed 6/10/2009, which have been entered in the filed. Claims 15-29 are pending.

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 15-29 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16, 17, 20-26, and 28-33 of copending Application No. 11/631203. Although the conflicting claims are not identical, they are not patentably distinct from each other because arranging the satellite routes transversely to the main vehicle route is well known in the art as demonstrated by the cited references (6,213,025; 3,800,963; 3,881,581).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Specification***

4. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01 VII. The URL on page 2, lines 12-13 of the specification must be deleted. The examples of a hyperlink or browser-executable code given in MPEP 608.01 VII are two separate examples. "<www.uspto.gov>" is the first example, and "http://www.uspto.gov" is the second example of a hyperlink or browser-executable code. The web address on page 2, lines 12-13 is formatted as the second example given in MPEP 608.01 VII. Additionally web addresses should not be included in Patents as the content of these websites may change over time and thus may no longer contain the information referred to by the Applicant. This revised content will also not represent the state of the art at the time of filing of the original application.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. **Claims 15-19, 23, 24, 28, and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauerwein et al (US Patent No. 6,213,025) in view of Upmeyer (US

Patent No. 6,148,752), Richardson (US Patent No. 3,881,581) and Wood (US Patent No. 5,519,262).

Sauerwein et al teaches:

**Re claim 15.** (All limitation taught in claim 1 of Sauerwein et al except where noted otherwise) A lateral guidance transportation system, comprising:

at least one route including carrier elements and lateral guidance elements;  
and

at least one transportation vehicle arranged as a main vehicle and including a device adapted to automatically move the transportation vehicle along the at least one route, energy transferred to the transportation vehicle one of (a) by a primary circuit having a contact wire arranged along the at least one route and (b) in a contactless manner, the transportation vehicle including at least one satellite vehicle including a drive automatically movable along an additional route and adapted to transport goods;

wherein the additional route includes a satellite route section for positioning and parking of the satellite vehicle;

wherein the satellite route section is alignable by positioning the main vehicle on satellite routes arranged transversely (column 2, lines 11-15) to a main vehicle route, the satellite routes arranged on shelves (column 2, lines 22-24); and

wherein the satellite route section and the satellite routes include primary conductors.

Sauerwein et al fails to specifically teach: **(re claim 15)** the transportation vehicle including a lifting platform driven by a drive.

Upmeyer teaches, at the abstract, including a pallet vehicle fitted with a vertical, central mast so that it can raise satellite vehicles to high bay shelving in a storage facility, thus making good use of limited floor space.

In view of Upmeyer's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the lateral guidance transportation system as taught by Sauerwein et al, **(re claim 15)** the transportation vehicle including a lifting platform driven by a drive; since Upmeyer teaches lifting satellite vehicles to reach high bay shelving using a pallet vehicle for storage efficiency.

Sauerwein et al as modified by Upmeyer fails to specifically teach: **(re claim 15)** wherein the satellite route section and the satellite routes include primary conductors supplied with energy in a contactless manner from the main vehicle; **(re claim 16)** wherein the drive of the lifting platform is provided with energy in a contactless manner; **(re claim 18)** wherein energy is transferable at at least one place in a contactless manner by the main vehicle to at least one primary conductor of at least one shelf of at least one side aisle; **(re claim 23)** wherein the main vehicle is adapted to supply current to the primary conductor of the respective shelf.

Richardson teaches, at the abstract, column 3, lines 48-64 and column 4, lines 17-28, providing power to conductor buses for powering a load carrier by aligning a transfer vehicle with the appropriate aisle and making an electrical connection between

the transfer vehicle and the conductor buses. This ensures that inactive aisles are deenergized and thus prevents accidental injuries to personnel in the aisles, as well as preventing accidental collision of the load carrier and the transfer vehicle if the transfer vehicle is struck and moved from its intended position, and electrical wiring requirements are substantially minimized.

Wood teaches, at column 1, lines 10-18, that inductive power couplings are preferable over electrical contacts since they eliminate friction, arcing, wear, mechanical stress, and inaccessibility.

In view of Richardson and Wood's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the lateral guidance transportation system as taught by Sauerwein et al, **(re claim 15)** wherein the satellite route section and the satellite routes include primary conductors supplied with energy in a contactless manner from the main vehicle; **(re claim 16)** wherein the drive of the lifting platform is provided with energy in a contactless manner; **(re claim 18)** wherein energy is transferable at at least one place in a contactless manner by the main vehicle to at least one primary conductor of at least one shelf of at least one side aisle; **(re claim 23)** wherein the main vehicle is adapted to supply current to the primary conductor of the respective shelf; since Richardson teaches supplying power from a transfer vehicle to the conductor buses to prevent injuries in inactive aisles and to substantially reduce electrical wiring requirements, and Wood teaches using contactless power transfer to eliminate wear on the electrical connections.

Sauerwein et al additionally teaches:

**Re claim 17.** Wherein the drive of the satellite vehicle is supplied with energy in a contactless manner (column 6, lines 1-4).

**Re claim 19.** Further comprising at least one pick-up adapted to contactlessly transmit energy (column 2, lines 25-27).

**Re claim 24.** Wherein at least one pick-up includes one of (a) a U-shaped ferrite core (column 2, line 43), (b) a C-shaped ferrite core and (c) an E-shaped ferrite core.

**Re claim 28.** Wherein the primary line is arranged one of (a) as an outgoing line and a return line and (b) as an outgoing line and an at least partially surrounding profile. (The contactlessly powered satellites can move away from and back to the host vehicle along their tracks, so the primary circuit must be outgoing and returning.)

**Re claim 29.** Wherein at least one of the drives includes at least one of (a) an electric motor and (b) a geared motor. (column 4, lines 33-35, the motor runs on electricity.)

7. **Claims 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauerwein et al (US Patent No. 6,213,025) as modified by Upmeyer (US Patent No. 6,148,752), Richardson (US Patent No. 3,881,581) and Wood (US Patent No.



5,519,262) as applied to claim 15 above, and further in view of Kelley et al (US Patent No. 4,833,337).

The teachings of Sauerwein et al as modified by Upmeyer, Richardson and Wood have been discussed above. Sauerwein et al as modified by Upmeyer, Richardson and Wood fails to specifically teach: **(re claim 20)** wherein the main vehicle includes a power supply unit adapted to feed a primary line provided on the main vehicle inductively coupled to a pick-up connected to a terminal box adapted for impedance compensation and which feeds at least one primary line provided in the satellite route section.

Kelley et al teaches, at column 2, lines 16-18, impedance compensation for an inductive pickup.

In view of Kelley et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the lateral guidance transportation system as taught by Sauerwein et al as modified by Upmeyer, Richardson and Wood as modified by Holland, **(re claim 20)** wherein the main vehicle includes a power supply unit adapted to feed a primary line provided on the main vehicle inductively coupled to a pick-up connected to a terminal box adapted for impedance compensation and which feeds at least one primary line provided in the satellite route section; since Kelley et al teaches impedance compensation is necessary for an inductive power pickup, and it is well known to enclose electronics in terminal boxes to protect them from the harsh conditions outside.

**Re claim 21.** Sauerwein et al as modified by Upmeyer, Richardson, Wood, and Kelley et al teaches the claimed invention except for arranging a pick-up in a floor. It would have been an obvious matter of design choice to place a pick-up in a floor since applicant has not disclosed that placing a pick-up in a floor solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the pick-up at any location.

**Re claim 22.** Richardson teaches including a pick-up at the shelf at Figure 1.

8. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauerwein et al (US Patent No. 6,213,025) as modified by Upmeyer (US Patent No. 6,148,752), Richardson (US Patent No. 3,881,581) and Wood (US Patent No. 5,519,262) as applied to claim 15 above, and further in view of Koyama et al (US Patent No. 6,583,697).

The teachings of Sauerwein et al as modified by Upmeyer, Richardson and Wood have been discussed above.

Sauerwein et al as modified by Upmeyer, Richardson and Wood fails to specifically teach: **(re claim 25)** wherein at least one pick-up includes a flat winding.

Koyama et al teaches, at column 2, lines 6-13, using a flat winding to reduce the size of electrical components.

In view of Koyama et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the lateral guidance transportation system as taught by Sauerwein et al as modified by Upmeyer, Richardson and Wood, **(re claim 25)** wherein at least one pick-up includes a flat winding; since Koyama et al teaches using flat windings reduces the size of electrical components.

9. **Claims 26 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauerwein et al (US Patent No. 6,213,025) as modified by Upmeyer (US Patent No. 6,148,752), Richardson (US Patent No. 3,881,581), Wood (US Patent No. 5,519,262) and Koyama et al (US Patent No. 6,583,697) as applied to claims 15 and 25 above, and further in view of Lin et al (US Publication No. 2001/0006364).

The teachings of Sauerwein et al as modified by Upmeyer, Richardson, Wood, and Koyama et al have been discussed above. Koyama et al additionally teaches a ferrite core at column 3, lines 36-40.

Sauerwein et al as modified by Upmeyer, Richardson, Wood, and Koyama et al fails to specifically teach: **(re claims 26 and 27)** an E-shaped core wherein the legs are shorter than the distance between legs.

Lin et al teaches, at Figure 8, an E-shaped core with legs shorter than the distance between legs.

In view of Lin et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the lateral guidance transportation

system as taught by Sauerwein et al as modified by Upmeyer, Richardson, Wood, and Koyama et al, **(re claims 26 and 27)** an E-shaped core wherein the legs are shorter than the distance between legs; since Lin et al teaches that this configuration allows for a more low profile configuration of components.

### ***Response to Arguments***

10. Applicant's arguments, see pages 7 and 8, filed 6/10/2009, with respect to the objections to the claims and specification, other than the objection to the hyperlink as restated above, have been fully considered and are persuasive. The objections of the claims and specification have been withdrawn.

11. Applicant's arguments, see pages 9-10, filed 6/10/2009, with respect to the rejection(s) of claim(s) 15 under 35 USC §103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sauerwein et al (US Patent No. 6,213,025) in view of Upmeyer (US Patent No. 6,148,752), Richardson (US Patent No. 3,881,581) and Wood (US Patent No. 5,519,262).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SPENCER PATTON whose telephone number is (571)270-5771. The examiner can normally be reached on Monday-Thursday 7:30-5:00; Alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571)272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SPENCER PATTON/  
Examiner, Art Unit 3664

8/14/2009  
/KHOI TRAN/  
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